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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/727,667	12/01/2000	Thomas R. Colligan	16356.567 (DC-02601)	2026
27683	7590	05/07/2004	EXAMINER	
HAYNES AND BOONE, LLP 901 MAIN STREET, SUITE 3100 DALLAS, TX 75202			CHUONG, TRUC T	
			ART UNIT	PAPER NUMBER
			2174	11

DATE MAILED: 05/07/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

09/727,667

Applicant(s)

COLLIGAN ET AL.

Examiner

Truc T Chuong

Art Unit

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 13 February 2004.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1,2,4-10,12-18,20-27 and 29-31 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1,2,4-10,12-18,20-27 and 29-31 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_

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### DETAILED ACTION

1. This communication is responsive to Amendment D, filed 02/13/04.
2. Claims 1-2, 4-10, 12-18, 20-27, and 29-31 are pending in this application. Claims 1, 9, 17, 25, 30 and 31 are independent claims. In Amendment C, claims 1, 9, 17, 25, 30, and 31 are amended. This action is made final.

#### *Claim Rejections - 35 USC § 103*

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claims 1-2, 4-10, 12-18, 20-27, and 29-31 are rejected under 35 U.S.C. 103(a) as being unpatentable over Chari (U.S. Patent No. 6,046,742) in view of Funches et al. (U.S. Patent No. 5,305,160).

As to claim 1, Chari teaches a method of providing acoustic management in a computer comprising:

receiving from a user instructions regarding a selected acoustic level via an interface (col. 6 lines 19-33 and figs. 17-18); and

adjusting an operational level of at least one subsystem of the computer to achieve the selected acoustic level (cooling subsystem, col. 13 lines 38-60 and fig. 17); however, Chari does not teach performing a pre-test to determine current hard disk drive seek

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settings and current system settings. Funches clearly teaches pre-test a disk drive to determine the actual performance of each zone in a RAM (col. 9 lines 54-67), and calibration routine is initiated by a system microprocessor whenever the computer is turned on (col. 10 lines 1-15). It would have been obvious at the time of the invention, that a person with ordinary skill in the art would want to have the pre-test and the calibration to the current system and the hard drive of Funches <sup>in</sup> to the acoustic level ~~to~~ control of Chari to allow an operator to easily control, adjust, and monitor the performance of a computer system. KK

As to claim 2, Chari teaches the method of claim 1 further comprising:

subsequent to the adjusting, demonstrating to the user the selected acoustic level (col. 13 lines 1-25 and figs. 17-18).

As to claim 4, Chari teaches the method of claim 1 wherein the adjusting an operational level of at least one subsystem of the computer comprises adjusting the speed of an internal fan (col. 13 lines 1-40 and figs. 17-18).

As to claim 5, Chari teaches the method of claim 4 wherein the adjusting an operational level of at least one subsystem of the computer comprises making corresponding adjustments to overall operation of a portion of the computer to maintain a heat production level of the computer at a level that can be managed by the internal fan operating at the adjusted speed (Temperature Sensors, col. 13 lines 38-60 and figs. 17-21).

As to claim 6, Chari teaches the method of claim 1 wherein the adjusting an operational level of at least one subsystem of the computer is performed using redefined power management levels of the computer (figs. 22-24).

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As to claim 7, Chari teaches the method of claim 1 wherein the adjusting an operational level of at least one subsystem of the computer comprises adjusting a speed of a peripheral bus, with corresponding adjustments to a speed of at least one peripheral device connected to the peripheral bus (DIMM, figs. 15-16).

As to claim 8, Chari teaches the method of claim 1 further comprising, prior to the receiving, displaying a graphical user interface for enabling the user to select an acoustic level (Options dialog box allows user to make change, col. 8 lines 40-59 and figs. 22, 24-25).

As to claims 9-10, they are system claims of method claims 1-2. Note the rejections of claim 1-2 above respectively.

As to claims 12-16, they are system claims of method claims 4-8. Note the rejections of claims 4-8 above respectively.

As to claim 17, it is individually similar in scope to claim 9 above; therefore, rejected under similar rationale.

As to claim 18, it is individually similar in scope to claim 10 above; therefore, rejected under similar rationale.

As to claims 20-24, they are similar in scope to claims 12-16 above; therefore, rejected under similar rationale.

As to claims 25-27, they are computer program product claims of method claims 1-2, and 8. Note the rejections of claims 1-2, and 8 above.

As to claim 29, this is computer program product claim of method claim 5. Note the rejection of claim 5 above.

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As to claims 30 and 31, they can be rejected similar in scope to claim 1. Note the rejection of claim 1 above.

*Response to Arguments*

Applicant's arguments with respect to claims 1-2, 4-10, 12-18, 20-27, and 29-31 have been considered but are moot in view of the new ground(s) of rejection.

*Conclusion*

5. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Truc T Chuong whose telephone number is 703-305-5753. The examiner can normally be reached on M-Th and alternate Fridays 8:30 AM - 5:00 PM.

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Kristine L. Kincaid can be reached on 703-308-0640. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Truc T. Chuong

04/27/04

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